

some one or more of them, to appear, on some fixed day, to shew cause wherefore the will or codicil should not be proved, or direct such notice to be given in the public papers, or otherwise, as they may think proper; and if no objection shall be made, or caveat entered on or before the day fixed, the said court, or the register of wills in their recess, may proceed to take the probat of such will or codicil; but if objection shall be made, on or before the day appointed, the said court shall have cognizance of the affair, and shall determine according to the testimony produced on both sides.

How wills shall be authenticated or proved.

SEC. 9. If any person whatever shall enter a caveat against any such will or codicil respecting personal property, or appointing an executor, either before or after it shall be exhibited to the register of wills or orphans court, the said caveat shall be decided by the said court.

SEC. 10. In case any person shall enter a caveat against any will or codicil respecting personal property, or appointing an executor, of which probat shall have been taken by the register as aforesaid, no letters testamentary shall be granted, until a determination shall be had in the orphans court.

SEC. 11. In case the adjudication of any orphans court, to whom any such will or codicil, respecting personal property, or appointing an executor, shall be exhibited for probat, shall be against the said will or codicil, it shall not be received for probat in any other county; provided nevertheless, that either party conceiving him or herself aggrieved by the decision of the said court, relative to the probat, may, within three days after such decision, enter an appeal to the court of chancery, or the general court of the shore whereon such orphans court is held; and the said appeal shall stay further proceedings of the orphans court, provided an attested copy of the whole proceedings, under the seal of the office, be filed in the said chancery court, or general court, within sixty days thereafter; and the decree of the chancery court, or general court, to be given on the transcript only, shall be final and conclusive; and the orphans court shall proceed according to the said decree, an attested copy whereof shall be transmitted, under seal, to the orphans court.

The appeal is remodelled by the act of 1818, ch. 204.

SEC. 12. If no objections shall be made to the probat of a will or codicil, respecting personal property, or appointing an executor, or no caveat shall be filed against the same before probat, it shall not be necessary to examine all the witnesses, unless they shall voluntarily attend, but the probat may be made on such proof as shall be sufficient to give efficacy to a will or codicil for passing personal property; provided that every executor, or other person, exhibiting a will, shall be